



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Twenty Sixth day of September Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice S.NAGAMUTHU

and

The Hon`ble Mr.Justice M.V.MURALIDARAN

CRL MP (MD) No.6901 of 2016

IN

CRL A (MD) No.291 of 2016

P.BALASANKAR

..PETITIONER/APPELLANT

Vs.

STATE REP.BY

THE INSPECTOR OF POLICE

PETTAI POLICE STATION,

TIRUNELVELI DISTRICT.

CR. NO.306/2008

..RESPONDENT/RESPONDENT

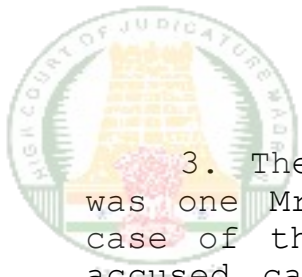
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed by the Learned III-Additional District and Sessions Court, Tirunelveli in S.C.No.80 of 2009 dated 10.12.2015 pending disposal of this appeal and release the petitioner on bail.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.AR.JEYA RHUTHRAN, Advocate for the petitioner and of Mr.K.RAMACHANDRAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by **S.NAGAMUTHU, J**)

The petitioner/appellant is the 1st accused in S.C.No.80 of 2009 on the file of learned III Additional District and Sessions Judge, Tirunelveli. He stood charged under Sections 302, 294(b) and 506(ii) IPC. The trial Court convicted the appellant for offence under Sections 302 IPC. The maximum punishment imposed upon him is imprisonment for life. Challenging the said conviction as well as sentence imposed, the petitioner has come up with this appeal. Pending appeal, he seeks suspension of the substantive sentence of imprisonment imposed on him.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and we have also perused the records carefully.



3. The appellant/petitioner is the 1st accused and 2nd accused was one Mr.Chelladurai. They are co-brothers. According to the case of the prosecution, on account of domestic issue, these two accused came to the house of the deceased and the first accused attacked her with aruval followed by the 2nd accused attacked her with aruval. The deceased died on the spot. The deceased was the mother-in-law of both the accused. But, in evidence, P.W.1 had given a clean chit to the 2nd accused. She has stated that only the 1st accused came and he only cut the deceased. There is no other evidence against him. Thus, the evidence of P.W.1 is only partly believable. For want of corroboration, in our considered view, it is too difficult to place reliance solely on the evidence of P.W.1. Thus, the petitioner has made out a prima facie case for suspending the substantive sentence of imprisonment.

4. Therefore, we are inclined to suspend the substantive sentence of imprisonment alone imposed on the petitioners pending appeal.

5. Accordingly, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended and the petitioner is directed to be enlarged on bail, on the following conditions:

The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, No.V, Tirunelveli and on further condition that the petitioner shall report before the concerned Court at 10.30 a.m., on the first working day of every English Calender Month, until further orders.

sd/-

26/09/2016

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIRUNELVELI.
- 2 -do-thro' THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, TIRUNELVELI.
- 3 THE JUDICIAL MAGISTRATE NO.V, TIRUNELVELI.
- 4 -do-thro' THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI.
- 5 THE PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- 6 THE INSPECTOR OF POLICE, PETTAI POLICE STATION,
TIRUNELVELI DISTRICT.



7 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

+1..C.C. to M/S.AR.JEYA RHUTHRAN Advocate SR.No.55513

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ORDER IN
CRL MP(MD) No.6901 of 2016
IN
CRL A(MD) No.291 of 2016
Date :26/09/2016

PBK/SK-SKN/SAR-I 28/09/2016 ::3P-9C: